

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: ASBESTOS PRODUCTS LIABILITY  
LITIGATION (NO. VI)**

MDL No. 875

(SEE ATTACHED SCHEDULE)

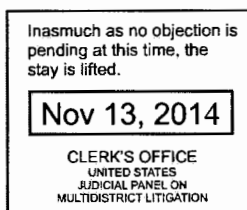
**CONDITIONAL REMAND ORDER**

The transferee court in this litigation has, in the actions on this conditional remand order: (1) severed all claims for punitive or exemplary damages; and (2) advised the Panel that coordinated or consolidated pretrial proceedings with respect to the remaining claims have been completed and that remand to the transferor court(s), as provided in 28 U.S.C. §1407(a), is appropriate.


IT IS THEREFORE ORDERED that all claims in the action(s) on this conditional remand order except the severed damages claims be remanded to its/their respective transferor court(s).

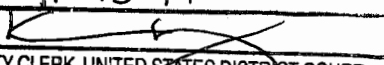
IT IS ALSO ORDERED that, pursuant to Rule 10.2 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the transmittal of this order to the transferee clerk for filing shall be stayed 7 days from the date of this order. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel. This order does not become effective until it is filed in the office of the Clerk for the United States District Court for the Eastern District of Pennsylvania.

IT IS FURTHER ORDERED that, pursuant to Rule 10.4(a), the parties shall furnish the Clerk for the Eastern District of Pennsylvania with a stipulation or designation of the contents of the record to be remanded and all necessary copies of any pleadings or other matter filed so as to enable said Clerk to comply with the order of remand.



FOR THE PANEL:

  
Jeffery N. Lüthi  
Clerk of the Panel

A TRUE COPY CERTIFIED TO FROM THE RECORD  
DATED: 11-13-14  
ATTEST:   
DEPUTY CLERK, UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

**IN RE: ASBESTOS PRODUCTS LIABILITY  
LITIGATION (NO. VI)**

MDL No. 875

**SCHEDULE FOR CRO**

<b>TRANSFeree</b>			<b>TRANSFEROR</b>			<b>CASE CAPTION</b>
<b><u>DIST</u></b>	<b><u>DIV.</u></b>	<b><u>C.A.NO.</u></b>	<b><u>DIST</u></b>	<b><u>DIV.</u></b>	<b><u>C.A.NO.</u></b>	
PAE	2	09-63298	CAC	2	07-07959	DYER et al v. ALFA LAVAL, INC. et al
PAE	2	11-66273	CAN	3	11-02367	HILT et al v. FOSTER WHEELER LLC
PAE	2	11-67799	CAN	4	11-05597	SHELLY v. ASBESTOS CORPORATION LIMITED et al
PAE	2	10-68124	ILC	1	99-01257	MALONE v. AC & S INC et al
PAE	2	09-60939	ILN	1	96-01591	ENGELMAN v. ACANDS, INC. et al
PAE	2	11-60074	NCW	1	10-00262	PHILLIPS et al v. ALBANY INTERNATIONAL CORPORATION et al
PAE	2	12-60157	NCW	1	12-00117	SELLERS v. AIR & LIQUID SYSTEMS CORPORATION et al
PAE	2	12-60180	NYS	1	12-03611	COACH v. ARMSTRONG INTERNATIONAL INC. et al

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under  
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875

ENGELMAN

v.

VARIOUS DEFENDANTS

FILED

OCT 30 2014

MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

Transferred from the Northern  
District of Illinois  
Case No. 96-01591

E.D. Pa No. 09-60939

SUGGESTION OF REMAND

AND NOW, this 30th day of October, 2014, it is hereby  
ORDERED that, upon review of the above captioned case under MDL-  
875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30,  
2009), ECF No. 6197, the Court finds that, as to the above-  
captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative  
Orders 12 and 12A (see the MDL 875 website's Administrative  
Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule  
16 order issued by the Court (see ECF No. 9).
- c.) All discovery has been completed.
- d.) The deadline to file summary judgment motions has  
passed. The Court has adjudicated all outstanding motions,  
including dispositive motions.
- e.) Rule 18 settlement discussions have been exhausted at  
this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendant for trial is:

i. General Refractories Company

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Northern District of Illinois** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

Alternatively, parties have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60)

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.

  
EDUARDO C. ROBRENO, J.

## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

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### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on



substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C.\\_Lamberth@dcd.uscourts.gov](mailto:Royce_C._Lamberth@dcd.uscourts.gov) or (202) 354-3380.

### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under  
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875

DYER :  
v. :  
VARIOUS DEFENDANTS :  
MICHAEL E. KUNZ, Clerk  
By: \_\_\_\_\_ Dep. Clerk

**FILED**  
OCT 30 2014  
Transferred from the Central  
District of California  
Case No. 07-07959  
E.D. Pa No. 09-63298

**SUGGESTION OF REMAND**

AND NOW, this 30th day of October, 2014, it is hereby  
ORDERED that, upon review of the above captioned case under MDL-  
875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30,  
2009), ECF No. 6197, the Court finds that, as to the above-  
captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative  
Orders 12 and 12A (see the MDL 875 website's Administrative  
Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule  
16 order issued by the Court (see ECF No. 8).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions,  
including dispositive motions. Particularly relevant rulings  
include:
  - i. The motion for summary judgment of Defendant  
Foster Wheeler Energy Corporation was denied



with leave to refile in the transferor court  
(ECF No. 77).

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendant for trial is:

i. Foster Wheeler Energy Corporation

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Central District of California** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

Alternatively, parties have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.



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EDUARDO C. ROBRENO, J.

## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

---

### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on

substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C\\_Lamberth@dcd.uscourts.gov](mailto:Royce_C_Lamberth@dcd.uscourts.gov) or (202) 354-3380.

### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS	:	Consolidated Under
LIABILITY LITIGATION (No. VI)	:	MDL DOCKET NO. 875
	<b>FILED</b>	:
MALONE	:	Transferred from the Central
	OCT 30 2014:	District of Illinois
v.	:	Case No. 99-01257
	MICHAEL E. KUNZ, Clerk	:
VARIOUS DEFENDANTS	By _____ Dep. Clerk	E.D. Pa No. 10-68124

**SUGGESTION OF REMAND**

AND NOW, this 30th day of October, 2014, it is hereby ORDERED that, upon review of the above captioned case under MDL-875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30, 2009), ECF No. 6197, the Court finds that, as to the above-captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative Orders 12 and 12A (see the MDL 875 website's Administrative Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule 16 order issued by the Court (see ECF No. 4).
- c.) All discovery has been completed.
- d.) The deadline to file summary judgment motions has passed. The Court has adjudicated all outstanding motions, including dispositive motions.
- e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.



f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendant for trial is:

i. Metropolitan Life Insurance Company

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Central District of Illinois** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

Alternatively, parties have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60)

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).



days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Eduardo C. Robreno", written over a horizontal line.

EDUARDO C. ROBRENO, J.

## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

---

### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on

substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C.\\_Lamberth@dcd.uscourts.gov](mailto:Royce_C._Lamberth@dcd.uscourts.gov) or (202) 354-3380.

### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under  
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875

PHILLIPS

v.

VARIOUS DEFENDANTS

FILED  
OCT 30 2014

Transferred from the Western  
District of North Carolina  
Case No. 10-00262

MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

E.D. Pa No. 11-60074

**SUGGESTION OF REMAND**

AND NOW, this 30th day of October, 2014, it is hereby  
ORDERED that, upon review of the above captioned case under MDL-  
875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30,  
2009), ECF No. 6197, the Court finds that, as to the above-  
captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative  
Orders 12 and 12A (see the MDL 875 website's Administrative  
Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule  
16 order issued by the Court (see ECF No. 17).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions,  
including dispositive motions. Particularly relevant rulings  
include:
  - i. The motions for summary judgment of  
Defendants Reddaway Manufacturing Co., Inc.

and Pneumo Abex LLC were denied with leave to refile in the transferor court (ECF No. 300).

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendants for trial are:

- i. Reddaway Manufacturing Company, Inc.
- ii. Pneumo Abex LLC

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Western District of North Carolina** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive

Alternatively, parties have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.



EDUARDO C. ROBRENO, J.

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damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).



## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

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### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on

substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C.\\_Lamberth@dcd.uscourts.gov](mailto:Royce_C._Lamberth@dcd.uscourts.gov) or (202) 354-3380.

### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under  
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875  
  
HILT :  
v. :  
VARIOUS DEFENDANTS :  
E.D. Pa No. 11-66273

FILED  
OCT 30 2014  
JULIE KUNZ, Clerk  
Dep. Clerk

Transferred from the Northern  
District of California  
Case No. 11-02367

**SUGGESTION OF REMAND**

AND NOW, this 30th day of October, 2014, it is hereby  
ORDERED that, upon review of the above captioned case under MDL-  
875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30,  
2009), ECF No. 6197, the Court finds that, as to the above-  
captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative  
Orders 12 and 12A (see the MDL 875 website's Administrative  
Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule  
16 order issued by the Court (see ECF No. 9).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions,  
including dispositive motions. Particularly relevant rulings  
include:
  - i. The motion for summary judgment of Defendant  
Puget Sound Commerce Center, Inc. was granted

in part, denied in part (ECF No. 93).

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendant for trial is:

i. Puget Sound Commerce Center, Inc.

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Northern District of California** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

Alternatively, parties have **seven (7) days** within which

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.



EDUARDO C. ROBRENO, J.



## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

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### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on



substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C\\_Lamberth@dcd.uscourts.gov](mailto:Royce_C_Lamberth@dcd.uscourts.gov) or (202) 354-3380.

### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under  
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875  
SHELLY :  
v. : Transferred from the Northern  
District of California  
Case No. 11-05597  
VARIOUS DEFENDANTS : E.D. Pa No. 11-67799

**FILED**  
OCT 30 2014  
MARCOLE KUNZ, Clerk  
By: \_\_\_\_\_ Dep. Clerk

**SUGGESTION OF REMAND**

AND NOW, this 30th day of October, 2014, it is hereby  
ORDERED that, upon review of the above captioned case under MDL-  
875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30,  
2009), ECF No. 6197, the Court finds that, as to the above-  
captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative  
Orders 12 and 12A (see the MDL 875 website's Administrative  
Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule  
16 order issued by the Court (see ECF No. 23).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions,  
including dispositive motions. Particularly relevant rulings  
include:
  - i. The motion for summary judgment of Defendant  
Huntington Ingalls Incorporated was granted

(ECF No. 86).

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendants for trial are:

- i. CBS Corporation
- ii. General Electric Company
- iii. Owens-Illinois, Inc.

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Northern District of California** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive

Alternatively, parties have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.

  
EDUARDO C. ROBRENO, J.

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damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

---

### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on



substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

#### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

#### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C\\_Lamberth@dcd.uscourts.gov](mailto:Royce_C_Lamberth@dcd.uscourts.gov) or (202) 354-3380.

#### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

#### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.



ER

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : Consolidated Under  
LIABILITY LITIGATION (No. VI) : MDL DOCKET NO. 875

SELLERS

v.

VARIOUS DEFENDANTS

FILED

OCT 30 2014

MICHAEL G. KUNZ, Clerk  
By: [Signature] Dep. Clerk

Transferred from the Western  
District of North Carolina  
Case No. 12-00117

E.D. Pa No. 12-60157

File

SUGGESTION OF REMAND

AND NOW, this 30th day of October, 2014, it is hereby  
ORDERED that, upon review of the above captioned case under MDL-  
875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30,  
2009), ECF No. 6197, the Court finds that, as to the above-  
captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative  
Orders 12 and 12A (see the MDL 875 website's Administrative  
Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule  
16 order issued by the Court (see ECF No. 14).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions,  
including dispositive motions. Particularly relevant motions  
include:

- i. The motion for summary judgment of Defendant  
Crane Co. was denied (ECF No. 164).

ENTERED

OCT 30 2014

CLERK OF COURT

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendants for trial are:

- i. Crane Co.
- ii. Hanson Aggregates West, Inc.
- iii. Hanson Building Materials America, Inc.
- iv. Hanson Permanente Cement, Inc.

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Western District of North Carolina** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive

Alternatively, parties have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60) days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.

  
\_\_\_\_\_  
EDUARDO C. ROBRENO, J.

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damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

---

### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on

substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C.Lamberth@dcd.uscourts.gov](mailto:Royce_C.Lamberth@dcd.uscourts.gov) or (202) 354-3380.

### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS	:	Consolidated Under
LIABILITY LITIGATION (No. VI)	:	MDL DOCKET NO. 875
COACH	:	
	:	
	:	Transferred from the Southern
	:	District of New York
	:	(Case No. 12-03611)
v.	:	
	:	
VARIOUS DEFENDANTS	:	E.D. Pa No. 12-60180

FILED  
OCT 30 2014  
MICHAEL E. KUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk

SUGGESTION OF REMAND

AND NOW, this 30th day of October, 2014, it is hereby ORDERED that, upon review of the above captioned case under MDL-875 Administrative Order No. 18, No. 01-875 (E.D. Pa. April 30, 2009), ECF No. 6197, the Court finds that, as to the above-captioned case:

- a.) Plaintiff has complied with MDL-875 Administrative Orders 12 and 12A (see the MDL 875 website's Administrative Orders page, at <http://www.paed.uscourts.gov/mdl875d.asp>).
- b.) Parties have completed their obligations under the Rule 16 order issued by the Court (see ECF No. 9).
- c.) All discovery has been completed.
- d.) The Court has adjudicated all outstanding motions, including dispositive motions. Particularly relevant rulings include:
  - i. The motions for summary judgment of

Defendants FMC Corporation, Buffalo Pumps, Borg Warner, Ingersoll-Rand, Crane Co., CBS Corporation, and Icon Management were denied with leave to refile in the transferor court (ECF Nos. 122, 123, 124, 125, 126, 127 and 128).

ii. The motions for summary judgment of Defendants Foster Wheeler Energy Corporation and General Electric Company were granted (ECF No. 127).

iii. The motion for summary judgment of Defendant Clarke Reliance Corporation was granted (ECF No. 121).

e.) Rule 18 settlement discussions have been exhausted at this time as to the remaining viable defendants.

f.) The Court finds that this case is prepared for trial without delay once on the transferor court's docket, subject to any trial-related motions in limine (including Daubert challenges).

g.) According to Plaintiff, the remaining viable defendants for trial are:

- i. CBS Corporation
- ii. Borg Warner Morse Tec, Inc.
- iii. Buffalo Pumps, Inc.

- iv. Icon Management Services LLC
- v. Crane Co.
- vi. FMC Corporation
- vii. IMO Industries
- viii. Ingersoll-Rand Company
- ix. National Automotive Parts Association
- x. Warren Pumps, LLC

h.) Any demand for punitive damages is severed, and claims for punitive or exemplary damages are retained by the MDL-875 Court. See Fed. R. Civ. P. 42(b).

Accordingly, the Court **SUGGESTS** that the above-captioned case should be **REMANDED** to the United States District Court for the **Southern District of New York** for resolution of all matters pending within this case except punitive damages.<sup>1</sup>

Alternatively, parties have **seven (7) days** within which to consent to a trial before an Article III or Magistrate Judge in the Eastern District of Pennsylvania. In such an event, if consent is granted, a trial will be scheduled within sixty (60)

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<sup>1</sup> The Court finds that the issue of punitive damages must be resolved at a future date with regard to the entire MDL-875 action, and therefore any claims for punitive or exemplary damages are hereby **SEVERED** from this case and retained by the MDL-875 Court in the Eastern District of Pennsylvania. See In re Collins, 233 F.3d 809, 810 (3d Cir. 2000) ("It is responsible public policy to give priority to compensatory claims over exemplary punitive damage windfalls; this prudent conservation more than vindicates the Panel's decision to withhold punitive damage claims on remand."); see also In re Roberts, 178 F.3d 181 (3d Cir. 1999).

days, on a date convenient to the parties in Philadelphia, Pennsylvania, and the Suggestion of Remand will be vacated.

AND IT IS SO ORDERED.



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EDUARDO C. ROBRENO, J.

## **SUGGESTION OF REMAND MEMORANDUM**

Updated April 7, 2014

**To:** Transferor Judge

**From:** Judge Eduardo C. Robreno, Presiding Judicial Officer, MDL 875

**Re:** Asbestos case that has been transferred to your court

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### **Status of the case that has been transferred from the Eastern District of Pennsylvania**

This case has been transferred back to the transferor court, from the MDL 875 Court in the Eastern District of Pennsylvania.

Cases that are remanded to transferor courts are ordinarily ready for trial, pursuant to this Court's Administrative Order No. 18 (see <http://www.paed.uscourts.gov/mdl875d.asp>).

Specific information regarding the history of a specific case while it was in the MDL 875 Court can be found in the Suggestion of Remand (above) that the MDL Court submitted to the Judicial Panel on Multidistrict Litigation in connection with its Order.

### **History of MDL 875, In re: Asbestos Products Liability Litigation**

MDL 875, In re: Asbestos Products Liability Litigation, involves issues relating to personal injury damages caused by asbestos products. It currently consists of about 3,000 cases transferred by the Judicial Panel on Multidistrict Litigation, which has been transferring cases to the Eastern District of Pennsylvania since 1991. Each case typically consists of claims by multiple plaintiffs against multiple defendants. Since its inception, the litigation has involved more than 100,000 cases and up to ten million claims, including land-based and maritime claims ("MARDOC").

Beginning with Administrative Order No. 12 (see <http://www.paed.uscourts.gov/mdl875d.asp>) in 2008, the Court initiated an aggressive, pro-active policy to facilitate the processing of cases. The policy involves giving newly transferred cases scheduling orders; setting cases for settlement conferences; having motion hearings; and remanding trial-ready cases to transferor courts, or, in the alternative, holding trials in the Eastern District of Pennsylvania (if so requested by the parties).

### **Resources available for transferor courts on the MDL 875 website**

More information about the history of MDL 875 can be found on the Eastern District of Pennsylvania's MDL 875 website at <http://www.paed.uscourts.gov/mdl875a.asp>. Additionally, all Administrative Orders issued in this litigation (including current Orders and those no longer in effect) can be found at <http://www.paed.uscourts.gov/mdl875d.asp>.

Also on the website is an Excel spreadsheet of all decisions issued by the Presiding Officer on



substantive and procedural matters since 2008 (see <http://www.paed.uscourts.gov/mdl875n.asp>). This spreadsheet is updated regularly, and it can be sorted by jurisdiction, case caption, subject matter, party name, etc. It is also word searchable. The MDL-875 Court intends this spreadsheet to be a helpful resource for transferor courts addressing issues similar to those already addressed by the MDL-875 Court.

Other options available to assist the Transferor Court with legal research include searchable databases created by LexisNexis and Westlaw. Directions on how to access these databases can be found on <http://www.paed.uscourts.gov/mdl875n.asp>.

### **Contact information for the MDL 875 Court**

The MDL 875 Court is ready, willing and able to assist the transferor court with any matters relating to the transfer of the case or any substantive or procedural issues that may arise.

You may contact the Presiding Judicial Officer (Judge\_Eduardo\_Robreno@paed.uscourts.gov), the MDL 875 law clerk (Christopher\_Lucca@paed.uscourts.gov or (267) 299-7422), or the Clerk's Office ((267) 299-7012)) for further assistance.

### **Intercircuit Assignment Committee**

The Intercircuit Assignment Committee of the Judicial Conference, under the leadership of Judge Royce C. Lamberth of the District of Columbia, can assist in the identification and assignment of a senior judge from another District who is ready, willing and able to preside over the trial of this case. If appropriate, please contact Judge Lamberth at [Royce\\_C\\_Lamberth@dcd.uscourts.gov](mailto:Royce_C_Lamberth@dcd.uscourts.gov) or (202) 354-3380.

### **Special Master**

The Court has designated Professor Francis McGovern to act as special master for remand purposes to assist the trial and/or transferor court in any manner deemed appropriate by those courts to insure the smooth and consistent remand of cases from MDL 875. If appropriate, please contact Professor McGovern at [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu).

### **Additional information pertaining to MDL 875**

The Presiding Judicial Officer has written an extensive article on the history and current status of MDL 875 which may be helpful to the transferor judge. See Hon. Eduardo C. Robreno, The Federal Asbestos Product Liability Multidistrict Litigation (MDL 875): Black Hole or New Paradigm?, 23 Widener L.J. 97 (2014). The article can be found on Westlaw, or a PDF copy of the article can be provided by contacting the MDL 875 law clerk.